

Guidance Document

Entities Claiming Both the Business Equipment Tax Reimbursement and the High-Technology Credit

Instructions for Calculating the Income Tax Credit and the BETR Reimbursement

GUIDANCE DOCUMENT FOR ENTITIES CLAIMING BOTH THE BUSINESS EQUIPMENT TAX REIMBURSEMENT AND HIGH-TECHNOLOGY INVESTMENT TAX CREDIT

According to the Business Equipment Tax Reimbursement (“BETR”) statute, businesses that claim both BETR and the High-Technology Investment Tax credit (“high-tech credit”) on the same property will be denied BETR reimbursement for certain years (See 36 M.R.S.A. § 6652) with respect to that property. This guidance document examines that limitation and explains its proper application to the two incentives.

Title 36, section 6652 reads, in part;

“A taxpayer that included the same property in its investment credit base under section 5219-D, 5219-E or 5219-M and claimed the credit provided in one or more of those sections on its income tax return may not be reimbursed under this chapter for taxes assessed in a year in which one or more of those credits are taken.”

Section 5219-D is the Solid Waste Reduction Investment Tax credit, section 5219-E is the Machinery and Equipment Investment Tax credit and section 5219-M is the high-tech credit. The Solid Waste Reduction Investment Tax credit is now obsolete. The Machinery and Equipment Investment Tax credit was last allowed to be claimed in 2001 and only carryover amounts may be used until this credit too, becomes obsolete after the 2006 tax year. Therefore, this guidance document addresses only the interaction between BETR and the high-tech credit.

The above statutory interaction between BETR and the high-tech credit indicates that an entity may not receive a BETR reimbursement of taxes for the same year the high-tech credit is taken. The result is that a business may take advantage of both the BETR program and the

high-tech credit, but any BETR reimbursement is sacrificed in the year a high-tech credit is first used.

Since the BETR reimbursement is based partly on the fiscal year of the municipality and partly on the calendar year in which property taxes are paid, it is not immediately obvious what year and what payments are considered to coincide with the high-tech credit claim. The key factor is identifying the year in which the property in question is first placed in service. The following examples help explain the correct procedure.

Example #1

Company A purchases \$100,000 of equipment (Machine A) in February, 2005 that qualifies for both BETR and the high-tech credit. The adjusted basis for the equipment is \$80,000 and the property tax assessed in April, 2005 is \$1,500, payable in two \$750 installments, one due September, 2005, the other due March, 2006.

Company A files its 2005 Maine income tax return in March, 2006. On this return is the claim for the high-tech credit of \$80,000 associated with Machine A. Company A is able to use all \$80,000 of the credit in the current year.

Company A also applies for a BETR reimbursement in August, 2006. This application is for reimbursement of property taxes paid in 2005. Company A must exclude the \$750 paid in 2005 relating to Machine A. The company must also exclude the \$750 of 2005-assessed property tax paid in 2006 on its BETR application next year.

Example #2

Company B purchases \$100,000 of equipment (Machine B) in February, 2005 that qualifies for both BETR and the high-tech credit. The adjusted basis of the equipment is \$80,000 and the property tax assessed in April, 2005 is \$1,500, payable in two \$750 installments, one due September, 2005 and the other due March, 2006.

Company B files its 2005 Maine income tax return in March, 2006. Company B claims a high-tech credit of \$80,000 with respect to the purchase of Machine B. Company B is only able to use \$70,000 of the credit this year and must carry over the remaining \$10,000 credit to the 2006 income tax return due March, 2007.

Company B also applies for a BETR reimbursement in August, 2006. This application is for reimbursement of property taxes paid in 2005. Company B must exclude the \$750 paid in 2005 relating to Machine B. The company must also exclude the \$750 of 2005-assessed property tax paid in 2006 on its BETR application next year. There is no additional adjustment to a subsequent BETR claim due to Company B's carry-over of the high-tech credit.

Example #3

Company C purchases \$100,000 of equipment (Machine C) in 2005 that qualifies for both BETR and the high-tech credit. The adjusted basis of the equipment is \$80,000 and the property tax assessed in 2005 is \$1,500, payable in two \$750 installments, one due September 15, 2005 and the other due March 15, 2006. The property tax assessed in 2006 is \$1,200, \$600 due September, 2006 and \$600 due March, 2007.

Company C files its 2005 Maine income tax return in March, 2006. On this return is the claim for the high-tech credit of \$80,000. However, since Company C has no taxable income for the year, none of the \$80,000 credit is used for 2005, and the entire credit amount is carried over to next year's income tax return. Company C files its 2006 Maine income tax return in March, 2007. On this return, Company C uses the first \$50,000 of the high-tech credit. Company C must also adjust its income by adding any federal depreciation claimed against Machine C for tax year 2006. Company C will follow similar procedures for future years, until the entire credit is exhausted.

Company C also applies for a BETR reimbursement in August, 2006. This application is for reimbursement of property taxes paid in 2005. Company C may include the \$750 paid in 2005 relating to Machine C. The company may also apply for reimbursement of the \$750 of 2005-assessed property tax paid in 2006 on its BETR application next year. However, Company C must exclude the property tax assessed in 2006 from both the 2006 and 2007 BETR reimbursement claims.

Questions

1. Do high-tech credit carryovers count toward BETR denial?

Not necessarily. As we can see from the examples above, BETR denial is only in the first year in which the high-tech credit is used, even if there is a carryover amount used in subsequent years.

2. When calculating the investment credit base for the high-tech credit, do you reduce the first year's depreciation by the Maine bonus depreciation addition modification?

No. The investment credit base is equal to the federal adjusted basis, which does not include the Maine adjustment for bonus depreciation.

3. Where in Maine law is the high-tech/BETR limitation?

The limitation is located in the BETR statute, 36 M.R.S.A. § 6652.

4. What if a taxpayer purchases property in excess of \$100,000 that is eligible for both the high-tech credit and BETR? Can the portion of value in excess of \$100,000 (the high-tech credit limit) be exempt from the BETR reimbursement one-year denial?

No. However, if a taxpayer purchases several items that total in excess of \$100,000, the taxpayer may select the items to be included in the investment credit base for the high-tech credit, thereby limiting the amount of BETR denial. For example, a business purchases two items, one having an adjusted basis of \$80,000 and the other with a basis of \$50,000. The business has two options. The first option is to include both items in the investment credit base for the high-tech credit (which is limited to the first \$100,000) and excluding both items from a claim for BETR reimbursement with respect to the related property tax year. The second option is to include only the \$80,000 property in the high-tech credit investment credit base and, by so doing, enable a claim for reimbursement for the \$50,000 property in the same year.

5. What income tax year corresponds to the property tax denial year between the high-tech credit and BETR?

The pivotal year is the year in which the property is placed in service. This is the year the property would qualify to be included in the investment credit base for the high-tech credit. This is also the initial year in which the property tax is usually assessed. This is the assessment for which BETR reimbursement is denied, regardless of when the tax is paid or the reimbursement is requested.